IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

WP(C).No. 35400 of 2007(L)

PETITIONER:

N.K.HARIKRISHNAN, FOREST GUARD (UNDER ORDERS OF TERMINATION), 'CHARUSREE', NEAR RAMESWARAM TEMPLE, AMARAVILA, NEYYATTINKARA P.O., THIRUVANANTHAPURAM DIST.

BY ADV. SRI.ELVIN PETER P.J.

RESPONDENTS:

1. **THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS, THIRUVANANTHAPURAM.**
2. **THE CONSERVATOR OF FORESTS, HIGH RANGE CIRCLE, KOTTAYAM.**
3. **THE DIVISIONAL FOREST OFFICER, MUNNAR DIVISION, DEVIKULAM.**
4. **SRI.P.K.RAJAN, ASST.CONSERVATOR OF FORESTS, MUNNAR DIVISION, DEVIKULAM (ENQUIRY OFFICER).**

BY GOVERNMENT PLEADER SRI. BEJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI,J.

W.P (C) No. 35400 of 2007

Dated this the 30th November, 2007

J U D G M E N T

While working as Forest Guard, the petitioner was proceeded against in departmental proceedings. The 4th respondent was the Enquiry officer. Apparently, a plea of adjournment made by the petitioner was not accepted without any justification, submits the petitioner. Petitioner submits that no enquiry was held on 10.3.2006, on which date the 4th respondent was not available for conducting the enquiry. Thereafter, without any enquiry, Exhibit-P9 show cause notice was issued by the 3rd respondent proposing punishment of dismissal. Exhibit-P10 objection was submitted by the petitioner. He refers to these facts in Exhibit-P10. Nevertheless Exhibit-P11 order was passed dismissing him from service. Petitioner contends that the order is completely unsustainable because it violates the principles of natural justice and also because it is otherwise void and non est in the eye of law.

2. Petitioner has filed Exhibit-P15 appeal against Exhibit-P11 order. Exhibit-P10 is the reply submitted by the petitioner before the 3rd respondent- the Divisional Forest

Officer. Learned counsel for the petitioner submits that in terms of Rule 13 -2 (a) (vi) of the Kerala Civil Services (Classification, Control & Appeal) Rules, 1960 appeal has to be preferred before the 2nd respondent. Though Exhibit-P15 can be forwarded to the 2nd respondent, learned counsel for the petitioner submits that it would be better if he files a fresh appeal before the 2nd respondent.

In the circumstances, this writ petition is disposed of permitting the petitioner to file a fresh appeal as against Exhibit-P11 order before the 2nd respondent. If such an appeal is filed within a period of three weeks, the 2nd respondent shall take up the same and dispose it of at any rate, within a period of two months from the date of receipt of a copy of this judgment.

(V.GIRI, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007